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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,716	10/29/2003	Anne Louise Miller	1443.015US2	5586

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EXAMINER

TAWFIK, SAMEH

ART UNIT PAPER NUMBER

3721

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/695,716

Applicant(s)

MILLER, ANNE LOUISE

Examiner

Sameh H. Tawfik

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focke et al. (5,040,685) in view of Chalin et al. (3,873,735).

Focke discloses a method for providing an enhanced opening system for a sealed container comprising: providing a bag having lines of weakness (Fig. 1; via 40 and Fig. 3; via by portion 39) and a pull-tab opener secured to the bag proximate to the lines of weakness (Fig. 3; via 36, 38, and 41), the pull-tab opener having a pull-tab opening integral therewith, wherein the pull-tab opening is desired to be hooked with hooking means (Figs. 1 and 3; via hook means portion 39 and foil piece 41).

Focke does not disclose the step of providing suitable markings to convey instructions to use the pull-tab opener to access the contents within the sealed container without utilizing a pinch force, wherein the sealed container is adapted to be opened easily with the pull tab opener by a person who follows the instructions conveyed by the markings. However, Chalin discloses a similar method for providing an opening system for container comprising the step of providing suitable markings via words to convey instructions to use the pull-tab opener to access the package contents without utilizing a pinch force, wherein the package is adapted to be opened

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easily by a person who follows the instructions conveyed by the markings (Figs. 1-13; via the printed instructions on the bag explaining how to open such bag).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Focke's method by having the step of providing suitable markings to convey instructions to use the pull tab opener to access package contents, as suggested by Chalin, in order to make it easy and simple opening and handling such containers (column 3, lines 39-41).

Regarding claims 13, 14, 16, 39, and 40: Focke discloses that the pull-tab opener is a reusable pull-tab opener with reusable securing means (Figs. 1 and 3; via 46).

Regarding claims 22-25: Focke discloses that the package contents comprise at least one product disposed within the sealed container, wherein the product is a disposable absorbent garment, which is napkin (Fig. 1; via tissue 43).

Regarding claim 26: it is inherent that Focke's package is capable of contenting articles of different types and sizes.

Regarding claim 27: Focke discloses that the bag and pull-tab opener are made from a polymeric plastic film, paper or paper composite and pull-tab opening is a finger sized opening (Figs. 1 and 3 and column 1, lines 5-10).

Regarding claim 28: Focke discloses that the hooking means comprises one to three fingers or and object, the object having a maximum diameter not greater than about eight cm, (Figs. 1 and 3; via the 39 and 41).

Regarding claim 29: Focke discloses that the lines of weakness are torn and an opening is created when the pull-tab opener is pulled (Fig. 3).

Regarding claim 30: Focke discloses that the package contents (43) are oriented proximate to the opening to facilitate easy removal (Fig. 3).

Regarding claims 19 and 31: Focke discloses that wherein at least a portion of the lines of weakness form a V-shape having a perforation junction or a U-shape, wherein the U-shape has two substantially parallel lines of perforations and a slit or third line of perforations located substantially perpendicular to and in between the two substantially parallel lines of perforations at one end (Fig. 3; via the U-shaped opening).

Regarding claim 32: Focke does not disclose that the a portion of the lines of weakness form the V-shape. However, the examiner takes an official notice that V-shape weakness line to open a bag is old, well known, and available in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Focke's U-shaped weakness line by having a V-shaped weakness line, as a matter of engineering design choice, in order to easily braking the weakness line and get easy and fast access to the contents of the container.

Regarding claim 33: Focke discloses that a portion of the lines of weakness form the U-shape and the reusable pull-tab opener covers the two substantially parallel line of perforations (Fig. 1).

Regarding claims 17 and 34: Focke discloses that the package is comprised of six panels arranged in a rectangular configuration and the substantially parallel lines of perforations extend across a portion of two adjacent panels, see for example (Fig. 2; via in upper and lower panels).

Regarding claims 18 and 35: Focke discloses that the package is comprised of six panels arranged in a rectangular configuration and the substantially parallel lines of perforations are

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contained on a single panel, see for example (Fig. 3; via the substantially parallel lines of portion 41).

### ***Response to Arguments***

Applicant's arguments filed 02/02/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both cited references of Focke '685 and Chalin '735 are relating to the art of package, regardless to the packed products both references are packing some type of products and the teaching or novelty of using markings to convey instructions to use the pull tab or an opener regardless to what is container by the package does not make a difference and would be obvious to skilled people in the art to use Chalin's markings and prints to modify Focke's opening system, regardless to what is inside the package.

Applicant argues that there is no suggestion in Focke as to the desirability of conveying instructions to use the pull-tab opener to access the package contents without utilizing a pinch force, while Chalin requires use of a pinch force. The examiner believes that Chalin only teaches the use of markings and prints to convey instructions of opening a package, regardless to the use of pinch force or not, as the main reference of Focke does not use a pinch force and Chalin uses

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marks to convey instructions to open a package, that make it obvious to modify Focke's method of opening system by using Chalin's markings to help and guide of opening the package.

Applicant further argues that Focke relies on "grasping means" to open the package, not "hooking means"; there is no teaching or suggestion that the foil piece 41 nor the recess can be hooked. The examiner believes that applicant broadly claimed "hooking means" which could be considered as the recess 39 and foil piece 41 of Focke's reference, which they are capable of being hooked.

Applicant argues that none of the cited references can pull tabs opening without utilizing a pinch force. The examiner believes that Focke discloses the pull tab opening without the use of pinch force as only using a pull tape 38.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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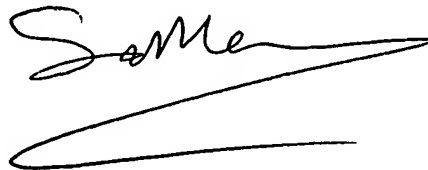
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470.

The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
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A handwritten signature in black ink, appearing to read 'Sameh', followed by a long, horizontal, slightly wavy line that extends to the right.

ST.